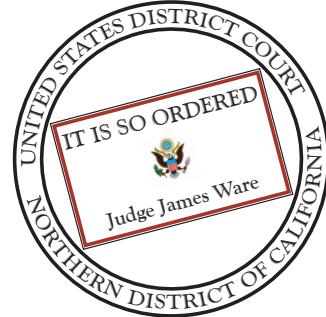


1 MICHAEL J. BETTINGER (STATE BAR NO. 122196)
2 TIMOTHY P. WALKER, PhD (STATE BAR NO. 105001)
3 ELAINE Y. CHOW (STATE BAR NO. 194063)
PRESTON GATES & ELLIS LLP
55 Second Street, Suite 1700
San Francisco, CA 94105
Phone: (415) 882-8200
Fax: (415) 882-8220

5 JOHN D. VANDENBERG
6 KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
7 121 S.W. Salmon St.
Portland, OR 97204-2988
8 Phone: (503) 226-7391
Fax: (503) 228-9446

9 KATHERINE FORD HORVATH (STATE BAR NO. 213098)
10 MICROSOFT CORPORATION
One Microsoft Way
11 Building 8
Redmond, WA 98052-6399
12 Phone: (425) 882-8080
Fax: (425) 869-1327

13 Attorneys for Defendant
14 MICROSOFT CORPORATION



15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 TELESHUTTLE TECHNOLOGIES, LLC,
TELESHUTTLE CORPORATION, and BTG
19 INTERNATIONAL INC.,

20 Plaintiffs and counter-defendants,

21 v.

22 MICROSOFT CORPORATION,

23 Defendant and counterclaimant.

24 AND RELATED ACTION.

Case No. C 04-2927 JW (HRL)

**MICROSOFT'S UNOPPOSED
REQUEST AND [PROPOSED]
ORDER FOR ADMINISTRATIVE
RELIEF TO FILE A SUPPLEMENTAL
MARKMAN BRIEF ADDRESSING THE
FEDERAL CIRCUIT'S RECENT EN
BANC DECISION PHILLIPS**

28 MICROSOFT'S UNOPPOSED REQUEST AND [PROPOSED]
ORDER FOR ADMINISTRATIVE RELIEF TO FILE A
SUPPLEMENTAL MARKMAN BRIEF ADDRESSING
THE FEDERAL CIRCUIT'S RECENT EN BANC
DECISION PHILLIPS
Case No.: C 04-2927 JW (HRL)

1 Pursuant to Local Rule 7-11, defendant Microsoft Corporation (“Microsoft”)
 2 respectfully requests leave to file a supplemental *Markman* brief addressing the Federal
 3 Circuit’s recent *en banc* decision in *Phillips v AWH Corp.*, Nos. 03-1260, 1286 (Fed. Cir.
 4 July 12, 2005). Counsel for Plaintiffs Teleshuttle Technologies, LLC, Teleshuttle
 5 Corporation and BTG International, Inc. (collectively, “BTG”) do not oppose Microsoft’s
 6 request, but simply request an opportunity to respond if appropriate.

7 The parties have briefed and, on two occasions, argued claim construction issues for
 8 the disputed terms and phrases of the nine independent apparatus claims of U.S. Patent Nos.
 9 6,125,388, 6,658,464 and 6,611,862. The Court plans to set a third hearing to address the
 10 impact of Figure 5 on claim construction issues, and the remaining terms and phrases in
 11 dispute. The claim construction proceeding remains open, and pending before the Court.

12 The Federal Circuit on July 12, 2005 issued its long-awaited decision in the *Phillips*
 13 case, clarifying the legal principles that guide claim construction. In particular, the *en banc*
 14 decision rejects the methodology in *Texas Digital Systems, Inc. v Telegenix, Inc.*, 308 F.3d
 15 1193 (Fed. Cir. 2003) and its progeny that greater emphasis be assigned to dictionary
 16 definitions than the written specification and prosecution history. Instead, *Phillips* reaffirms
 17 the approach to claim construction set forth in *Vitronics v. Conceptronic, Inc.*, 90 F.3d 1576
 18 (Fed. Cir. 1996) and reiterates that the specification is “the single best guide to the meaning
 19 of a disputed term,” Slip Op. at 24. *Phillips* further provides that “[p]roperly viewed, the
 20 ‘ordinary meaning’ of a claim term is its meaning to the ordinary artisan after reading the
 21 entire patent.” *Id.* at 25.

22 Microsoft respectfully requests leave to file a supplemental *Markman* brief applying
 23 the reasoning of *Phillips* to the disputed terms and phrases currently pending before the
 24 Court.

25
 26
 27

1 Microsoft proposes filing an opening supplemental *Markman* brief of no more than
2 15 pages, on or before July 22, 2005. Microsoft proposes that BTG file a response
3 supplemental *Markman* brief, if any, of no more than 15 pages, on or before July 29, 2005.

4
5 DATED: July 15, 2005

Respectfully submitted,

6 PRESTON GATES & ELLIS LLP

7
8 By /s/ Michael J. Bettinger
9 Michael J. Bettinger
10 Attorneys for Defendant
MICROSOFT CORPORATION

11
12
13 **ORDER**

14
15 GOOD CAUSE APPEARING, the unopposed Administrative Request of Microsoft
16 Corporation is hereby GRANTED.

17 Defendant, Microsoft shall file its opening supplemental *Markman* brief, limited to
18 15 pages, on or before July 22, 2005.

19 Plaintiff, BTG shall file its response supplemental *Markman* brief, if any, limited to
20 15 pages, on or before July 29, 2005.

21
22 July 20, 2005
Dated: _____

/s/ James Ware

23 _____
United States District Judge